

APR 20 2005

BEFORE THE DEPARTMENT OF INSURANCE
STATE OF NEBRASKA

FILED

STATE OF NEBRASKA)
DEPARTMENT OF INSURANCE,)
)
PETITIONER,)
)
VS.)
)
HOLMES, MURPHY AND ASSOCIATES,)
INC.,)
)
RESPONDENT.)

CONSENT ORDER

CAUSE NO. A-1614

Apr 18, 2005 ACCT# 8521 \$6,500.00
NO-INVOICE 88855 TRF# 1448453
HOLMES, MURPHY AND ASSOCIATES, INC.
CHECK# 197032

In order to resolve this matter, the Nebraska Department of Insurance ("Department"), by and through its attorney, Janette L. Adair, and Holmes, Murphy and Associates, Inc. ("Respondent"), mutually stipulate and agree as follows:

JURISDICTION

1. The Department has jurisdiction over the subject matter and Respondent pursuant to Neb. Rev. Stat. §§44-101.01, 44-4047 et seq., and 44-5801 et seq. (Reissue 2004).
2. Respondent was licensed to conduct business as an insurance producer in Nebraska at all times material hereto.
3. Respondent did not hold a valid third-party administrator certificate of authority to conduct business as a third-party administrator in Nebraska at any time relevant hereto.

STIPULATIONS OF FACT

1. The Department initiated this administrative proceeding by filing a petition styled State of Nebraska Department of Insurance vs. Holmes, Murphy and Associates, Inc., Cause

Number A-1614 on March 24, 2005. A copy of the petition was served upon the Respondent at the Respondent's address registered with the Department by certified mail, return receipt requested.

2. Respondent violated Neb. Rev. Stat. §44-5812(1) (Reissue 2004) as a result of the following conduct:

- a. On or about March 31, 2000, Respondent entered into a "Claims Servicing Agreement" with United States Fidelity and Guaranty Company. Pursuant to this agreement, Respondent acted as a third-party administrator in the state of Nebraska without a valid third-party administrator certificate of authority.
- b. On or about March 11, 2003, Creative Risk, as a division of Respondent, entered into an agreement with Zurich US. The agreement engaged the services of Respondent to "provide certain Claims Administration and Adjusting Services" for Zurich US policies. Pursuant to this agreement, Respondent and Creative Risk acted as third-party administrators in the state of Nebraska without a valid third-party administrator certificate of authority.
- c. Between approximately July 26, 2000 and January 19, 2005, Respondent acted as third-party administrator on workers compensation claims filed with the Nebraska Workers Compensation Court.

3. Respondents violated Neb. Rev. Stat. §44-1525(2) (Reissue 2004) as a result of the following conduct:

- a. On or about May 6, 2004, Respondent issued a misleading statement to the Department regarding Respondent's activities as a third-party administrator in Nebraska.
- b. On or about July 29, 2004, Respondent issued a misleading statement to the Department regarding Respondent's activities as a third-party administrator in Nebraska.

4. Respondent admits allegations in Paragraphs 2 and 3 above.

CONCLUSIONS OF LAW

Respondent's conduct as alleged above constitutes violations of Neb. Rev. Stat. §§44-5812(1) and 44-1525(2) (Reissue 2004).

CONSENT ORDER

It is therefore ordered by the Director of Insurance and agreed by Respondent, Holmes, Murphy and Associates, Inc., that Respondent shall pay an administrative fine in the amount of six thousand five hundred dollars (\$6,500.00), due within 30 days after the Director of Insurance or his designee approves and signs this consent order. If Respondent fails to pay the amounts required under this consent order, within the time specified, Respondent's Nebraska insurance agency license shall automatically be revoked. In witness of their intention to be bound by this Consent Order, each party has executed this document by subscribing his signature below.

Janette L. Adair
Janette L. Adair, #22618
Attorney for Petitioner
941 "O" Street, Suite 400
Lincoln, NE 68508
(402) 471-2201

Holmes Murphy and Associates, Inc.
Holmes, Murphy and Associates, Inc.,
Respondent

By: *Nick Henderson*

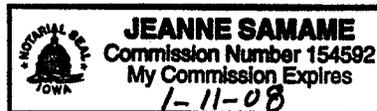
4-19-05
Date

4-06-05
Date

State of *Iowa*)
County of *Polk*) ss.

On this *6* day of *April*, 2005, *Nick J. Henderson* personally appeared before me and read this Consent Order, executed the same and acknowledged the same to be his voluntary act and deed.

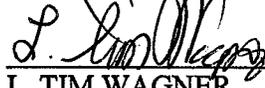
Jeanne Samame
Notary Public



CERTIFICATE OF ADOPTION

I hereby certify that the foregoing Consent Order is adopted as the Final Order of the Nebraska Department of Insurance in the matter of State of Nebraska Department of Insurance vs. Holmes, Murphy and Associates, Inc., Cause No. A-1614.

STATE OF NEBRASKA
DEPARTMENT OF INSURANCE



L. TIM WAGNER
Director of Insurance

4/20/05

Date

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing Petition and Notice of Hearing was served upon Respondent by mailing a copy to Respondent at 2637 South 158th Plaza, Suite 200, Omaha, Nebraska 68130 by certified mail, return receipt requested, on this 21st day of April, 2005.

